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COMMITTEE PRINT

COMPILATION  
OF THE  
NATIONAL SCHOOL LUNCH ACT  
AND  
THE CHILD NUTRITION ACT OF 1966  
WITH  
RELATED PROVISIONS OF LAW  
AND  
AUTHORITIES FOR COMMODITIES DISTRIBUTION

PREPARED BY THE  
SELECT COMMITTEE ON NUTRITION  
AND HUMAN NEEDS  
UNITED STATES SENATE



MARCH 1976



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## FOREWORD

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As Chairman of the Select Committee on Nutrition and Human Needs, I have watched with great satisfaction the growth of legislation in the areas of nutrition.

Congress and the American people have responded to the problems of hunger with a dedication and commitment unequalled in the area of social legislation.

The National School Lunch Act (Public Law 79-396), enacted in 1946, is the cornerstone of our food delivery legislation. Today the School Lunch Program feeds nearly 25 million American schoolchildren each day. Since then there have been numerous new acts and amendments which have further enlarged the scope of child nutrition.

In 1954, the Special Milk Program was authorized; and, in 1961, Section 11—provisions for payment for free and reduced-price lunches—were authorized.

In 1966, the Child Nutrition Act (Public Law 89-642) brought into being the School Breakfast Program, and an expanded concept of nutrition for children from needy families; in 1968, the Special Food Service Program—the program for out-of-school nutrition—was established, bringing summer feeding programs as well as all-year programs under the Act.

Public Law 91-248, enacted in 1970, gave further clarification of the intent of Congress that every needy child receive a free or reduced-price lunch, and eligibility standards were set forth.

During the 92d Congress, two other Acts, Public Law 92-32, and Public Law 92-153 again gave specific direction to the Department of Agriculture particularly in the matter of eligibility standards and reimbursement rates for meals served. Again, in 1972, it became imperative for the Congress to take action in the field of child nutrition and Public Law 92-433, approved September 26, 1972, authorized major changes in the funding procedures for Section 4 lunches and breakfasts; extended the school breakfast and special feeding programs through 1975, increasing appropriations for both programs to "such sums as are necessary"; supplied a floor and a ceiling for eligibility standards for free and reduced-price lunches; increased the general assistance reimbursement rate to 8 cents per lunch; increased the authorization for equipment and changed the distribution formula so as to channel 50 percent of the appropriated funds to no-program schools; gave State and local school authorities the regulatory authority over competitive food service, and instituted a Special Supplemental Food Program for mothers and babies at nutritional risk.

In 1973, funds were made available from the Commodity Credit Corporation to purchase those commodities no longer in surplus—in order to insure a continued steady supply of food to the domestic feeding programs. Also, in 1973, reimbursement rates were raised for lunch and breakfast; escalator clauses attached to the Consumer



Price Index were added to guarantee automatic adjustment; eligibility for the Special Milk Program was expanded; eligibility for the reduced-price program was increased to 75 percent above the income poverty guidelines; and the Special Supplemental Food Program was extended to insure a program duration consistent with the original Congressional mandate.

During 1974, the Commodity Distribution Program was extended for 1 year; the per meal level of commodity assistance increased to 10 cents per meal, and made permanent with an automatic escalator clause. Also in 1974, the new reduced-price program was made permanent; the authorization for nonfood assistance was increased; and, the appropriation for the Special Supplemental Food Program was expanded.

Finally, Public Law 94-105, enacted October 7, 1975, extensively reformed and revised many of the existing provisions contained in the School Lunch and Child Nutrition Acts.

The major changes include: An expansion, clarification, and revision of the Special Supplemental Food Program (WIC), doubling the authorized funds and providing nutrition education monies; a program of information for the School Breakfast Program, so that more schools can participate; an expansion of the reduced price lunch program to 175 percent of the income poverty guidelines, and a mandate that all schools offer it; a total revision of the Special Food Service Program, to establish a Child Care Food Program to ensure more adequate nutrition services for very young children; an extension of the Secretary's authority to purchase commodities for donation to the child nutrition programs; a total updating and revision of the Summer Food Program; inclusion of orphanages and homes for the mentally retarded among those institutions eligible for all child nutrition programs; and, an updating of the income poverty guidelines used in the child nutrition programs.

In light of the numerous amendments to child nutrition legislation in recent years, I thought it would be useful to update and compile these laws for the use of Members of Congress and their staffs, and for citizens interested in child nutrition legislation, to provide readily available information on the current provisions of the law, and I have therefore directed that the following committee print be published.

GEORGE MCGOVERN, *Chairman.*  
CHARLES H. PERCY.

# NATIONAL SCHOOL LUNCH ACT

AN ACT To provide assistance to the States in the establishment, maintenance, operation, and expansion of school-lunch programs, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National School Lunch Act."<sup>1</sup>

## DECLARATION OF POLICY

SEC. 2. It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school-lunch programs.

## APPROPRIATIONS AUTHORIZED

SEC. 3.<sup>2</sup> For each fiscal year there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as "the Secretary") to carry out the provisions of this Act, other than sections 13, 17, and 19. Appropriations to carry out the provisions of this Act and of the Child Nutrition Act of 1966 for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any other provision of law, any funds appropriated to carry out the provisions of such Acts shall remain available for the purposes of the Act for which appropriated until expended.

## APPORTIONMENTS TO STATES

SEC. 4.<sup>3</sup> The sums appropriated for any fiscal year pursuant to the authorization contained in section 3 of this Act, excluding the sum specified in section 5, shall be available to the Secretary for supplying agriculture commodities and other food for the program in accordance with the provisions of this Act. For each fiscal year the Secretary may make food assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by multiplying

<sup>1</sup> Public Law 79-396, 60 Stat. 230.

<sup>2</sup> Section 3 was amended by Public Law 87-823, 76 Stat. 944, approved Oct. 15, 1962, further amended by Public Law 90-302, 82 Stat. 117, approved May 8, 1968 to include the exception of new section 13 as well as section 11. Section 11 was then deleted by Public Law 93-326, 88 Stat. 287, approved June 30, 1974. Sections 17 and 19 were included in the exception by Public Law 94-105, 89 Stat. 511, veto overridden Oct. 7, 1975. Final two sentences were added by Public Law 91-248, 84 Stat. 207, approved May 14, 1970.

<sup>3</sup> Section 4 was amended by the act of Oct. 15, 1962 Public Law 87-823, 76 Stat. 944. Amended further by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.

the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection 9(a) of this Act) served during such fiscal year to children in schools in such State, which participate in the school lunch program under this Act under agreements with such State educational agency, by a national average payment per lunch for such fiscal year determined by the Secretary to be necessary to carry out the purposes of this Act: *Provided*, That in any fiscal year such national average payment shall not be less than 10 cents <sup>4</sup> per lunch and that the aggregate amount of the food assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section 4.

#### NONFOOD ASSISTANCE

Sec. 5.<sup>5</sup> Of the sums appropriated for any fiscal year pursuant to the authorization contained in section 3 of the Act, \$10,000,000 shall be available to the Secretary for the purpose of providing, during such fiscal year, nonfood assistance for the school-lunch program pursuant to the provisions of this Act. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of \$10,000,000 and such apportionment among the States shall be on the basis of the factors, and in accordance with the standards set forth in section 4 with respect to the apportionment for agricultural commodities and other foods.

#### DIRECT FEDERAL EXPENDITURES

SEC. 6.<sup>6</sup> (a) <sup>7</sup> The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966, other than section 3 thereof, less

(1) not to exceed  $3\frac{1}{2}\%$  per centum thereof which per centum is hereby made available to the Secretary for his administrative expenses under this Act and under the Child Nutrition Act of 1966;

(2) the amount apportioned by him pursuant to sections 4 and 5 of this Act and the amount appropriated pursuant to sections 11 and 13 of this Act and sections 4, 5 and 7 of the Child Nutrition Act of 1966; and

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3, which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and

<sup>4</sup> This amount was increased by Public Law 93-150, 87 Stat. 560, approved November 7, 1973.

<sup>5</sup> Section 5 was amended by Public Law 87-823, 76 Stat. 943.

<sup>6</sup> See section 404 of the Agricultural Act of 1949, Public Law 81-439, 63 Stat. 1054, approved Oct. 31, 1949, authorizing the use of the services and facilities of Commodity Credit Corporation in carrying out programs under section 6. [NOTE: The corporation has since been dissolved and its functions transferred.]

<sup>7</sup> The text of subsection (a) was designated as such by Public Law 93-13, 87 Stat. 9, approved March 30, 1973.



education for workers, cooperators, and participants in these programs and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966,

shall be available to the Secretary during such year for direct expenditure by him for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities.<sup>8</sup> The provisions of law contained in the proviso of the Act of June 28, 1937 (50 Stat. 323), facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act approved August 24, 1935 (49 Stat. 774), as amended, shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the Secretary under this Act. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specification will result in significant advantages to the food service programs authorized by this Act and the Child Nutrition Act of 1966.<sup>9</sup>

(b)<sup>10</sup> As of February 15 of each fiscal year, the Secretary shall make an estimate of the value of agricultural commodities and other foods that will be delivered during that fiscal year to States for school food service programs under the provisions of this section, section 416 of the Agricultural Act of 1949, and section 32 of the Act of August 24, 1935. If such estimated value is less than 90 per centum of the value of such deliveries initially programed for that fiscal year, the Secretary shall pay to State educational agencies, by not later than March 15 of that fiscal year, an amount of funds that is equal to the difference between the value of such deliveries initially programed for such fiscal year and the estimated value as of February 15 of such fiscal year of the commodities and other foods to be delivered in such fiscal year. The share of such funds to be paid to each State educational agency shall bear the same ratio to the total of such payment to all such agencies as the number of meals served under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act of 1966 during the preceding fiscal year bears to the total of all such meals served in all the States during such fiscal year: *Provided*, That in any State in which the Secretary directly administers school food service programs in any of the schools of such State, the Secretary shall withhold from the funds to be paid to any such State under the provisions of this subsection an amount that bears the same ratio to the total of such payment as the number of meals served in such schools under the provisions of section 9(a) of this Act and section 4(e) of the Child Nutrition Act of 1966 during that fiscal year bears to the total of such meals served in all the schools in such State in such

<sup>8</sup> This sentence was amended by Public Law 91-248, 84 Stat. 209, approved May 14, 1970.

<sup>9</sup> This provision was added by Public Law 94-105, 89 Stat. 515, veto overridden Oct. 7, 1975.

<sup>10</sup> Section 1 (b), (c), (d) was amended by Public Law 93-150, 87 Stat. 560, approved November 7, 1973. These three subsections were first added by Public Law 93-13, 87 Stat. 9, approved March 30, 1973 to provide for fiscal year 1973. Technical amendments were made by Public Law 94-105, 89 Stat. 511, veto overridden Oct. 7, 1975.

fiscal year. Each State educational agency, and the Secretary in the case of schools in which he directly administers school food service programs, shall promptly and equitably disburse such funds to schools participating in the lunch and breakfast programs under this Act and the Child Nutrition Act of 1966 and such disbursements shall be used by such schools to obtain agricultural commodities and other foods for their food service program. Such food shall be limited to the requirements for lunches and breakfasts for children as provided for in the regulations by the Department of Agriculture under title 7, subtitle (b), chapter II, subchapter (a), parts 210 and 220.

(c) Notwithstanding any other provision of law, the Secretary, until such time as a supplemental appropriation may provide additional funds for the purpose of subsection (b) of this section, shall use funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to make any payments to States authorized under such subsection. Any section 32 funds utilized to make such payments shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out subsection (b) of this section and such reimbursement shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935, to be available for the purposes of said section 32.

(d) Any funds made available under subsection (b) or (c) of this section shall not be subject to the State matching provisions of section 7 of this Act.

(e) <sup>11</sup> For the fiscal year ending June 30, 1975, and subsequent fiscal years, the national average value of donated foods, or cash payments in lieu thereof, shall not be less than 10 cents per lunch, and that amount shall be adjusted on an annual basis each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. Notwithstanding any other provision of this section, not less than 75 per centum of the assistance provided under this subsection (e) shall be in the form of donated foods for the school lunch program.<sup>12</sup>

#### PAYMENTS TO STATES

SEC. 7. Funds apportioned to any State pursuant to section 4 or 5 during any fiscal year shall be available for payment to such State for disbursement by the State educational agency, in accordance with such agreements not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agency, for the purpose of assisting schools of that State during such fiscal year, in supplying (1) agricultural commodities and other foods for consumption by children and (2) nonfood assistance in furtherance of the school lunch program authorized under this Act. Such

<sup>11</sup> This subsection was added by Public Law 93-326, 88 Stat. 286, approved June 30, 1974.

<sup>12</sup> This sentence was added by Public Law 94-105, 89 Stat. 515, veto overridden Oct. 7, 1975.



payments to any State in any fiscal year shall be made upon condition that each dollar thereof will be matched during such year from sources within the State determined by the Secretary to have been expended in connection with the school-lunch program under this Act. And for any fiscal year after 1965, such payments shall be made upon condition that each dollar will be so matched by \$3. In the case of any State whose per capita income is less than the per capita income of the United States, the matching required for any fiscal year shall be decreased by the percentage which the State per capita income is below the per capita income of the United States. For the purpose of determining whether the matching requirements of this section and section 10, respectively, have been met, the reasonable value of donated services, supplies, facilities and equipment as certified, respectively, by the State educational agency and in case of schools receiving funds pursuant to section 10, by such schools (but not the cost or value of land, of the acquisition, construction, or alteration of buildings of commodities donated by the Secretary, or of Federal contributions), may be regarded as funds from sources within the State expended in connection with the school lunch program. For the fiscal year beginning July 1, 1972, State revenue (other than revenues derived from the program) appropriated or utilized specifically for program purposes (other than salaries and administrative expenses at the State, as distinguished from local level) shall constitute at least 4 per centum of the matching requirements for the preceding fiscal year; for each of the two succeeding fiscal years, at least 6 per centum of the matching requirement for the preceding fiscal year; for each of the subsequent two fiscal years; at least 8 per centum of the matching requirement for the preceding fiscal year; and for each fiscal year thereafter, at least 10 per centum of the matching requirement for the preceding fiscal year.<sup>13 14</sup> The State revenues made available pursuant to the preceding sentence shall be disbursed to schools, to the extent the State deems practicable, in such manner that each school receives the same proportionate share of such revenues as it receives of the funds apportioned to the State for the same year under sections 4 and 11 of the National School Lunch Act and sections 4 and 5 of the Child Nutrition Act of 1966. The requirement in this section that each dollar of Federal assistance be matched by \$3 from sources within the State (with adjustments for the per capita income of the State) shall not be applicable with respect to the payments made to participating schools under section 4 of this Act for free and reduced price lunches: *Provided*, That the foregoing provision shall not affect the level of State matching required by the sixth sentence of this section.<sup>15</sup>

The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under this section and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

<sup>13</sup> This sentence was added by Public Law 91-248, 84 Stat. 209, approved May 14, 1970.

<sup>14</sup> Further amended by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.

<sup>15</sup> This sentence was added by Public Law 94-105, 89 Stat. 511, veto overridden Oct. 7, 1975.

## STATE DISBURSEMENTS TO SCHOOLS

SEC. 8. Funds paid to any State during any fiscal year pursuant to sections 4 and 5 shall be disbursed by the State educational agency in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school-lunch program. Such disbursement to any school shall be made only for the purpose of assisting it to finance the cost of obtaining agricultural commodities and other foods for consumption by children in the school-lunch program and nonfood assistance in connection with such program. Such food costs may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof. In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school-lunch program under this Act during such year by the maximum Federal food-cost contribution rate for the State, for the type of lunch served, as prescribed by the Secretary. In any fiscal year in which the national average payment per lunch determined under section 4 is increased above the amount prescribed in the previous fiscal year, the maximum Federal food-cost contribution rate, for the type of lunch served, shall be increased by a like amount.<sup>15</sup> Lunch assistance disbursements to schools under this section and under section 11 of this Act may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

## NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9.<sup>17</sup> (a) Lunches served by schools participating in the school-lunch program under this Act shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research; except that such minimum nutritional requirements shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students.<sup>18</sup>

The Secretary shall establish, in cooperation with State educational agencies, administrative procedures, which shall include local educational agency and student participation, designed to diminish waste of foods which are served by schools participating in the school lunch program under this Act without endangering the nutritional integrity of the lunches served by such schools. Students in senior high schools which participate in the school lunch program under this Act shall not be required to accept offered foods which they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such a lunch.<sup>19</sup>

<sup>15</sup> This sentence was added by Public Law 93-150, 87 Stat. 560, approved November 7, 1973.

<sup>17</sup> Amended by Public Law 91-248, 84 Stat. 210, further amended by Public Law 92-153, 85 Stat. 419, approved Nov. 5, 1971, and by Public Law 92-453, 86 Stat. 724, approved Sept. 26, 1972.

<sup>18</sup> Exception added by Public Law 90-302, 82 Stat. 117, approved May 8, 1968.

<sup>19</sup> This section regarding plate waste was added by Public Law 94-165, 89 Stat. 512, veto overridden Oct. 7, 1975.



(b)(1) <sup>20</sup> No later than June 1 of each fiscal year, the Secretary shall issue revised income poverty guidelines for use during the subsequent 12-month period from July through June. Such revisions shall be made by multiplying the income poverty guideline currently in effect by the change in the Consumer Price Index for the 12-month period ending in April of such fiscal year: *Provided*, That such revision for use from July 1976 through June 1977 shall be made by multiplying the income poverty guideline currently in effect by the change between the average 1974 Consumer Price Index and the Consumer Price Index for April 1976. Any child who is a member of a household which has an annual income not above the applicable family-size income level set forth in the income poverty guidelines prescribed by the Secretary shall be served a free lunch. Following the announcement by the Secretary of the income poverty guidelines for each 12-month period, each State educational agency shall prescribe the income guidelines, by family size, to be used by schools in the State during such 12-month period in making determinations of those eligible for a free lunch as prescribed in this section. The income guidelines for free lunches to be prescribed by each State educational agency shall not be less than the applicable family-size income levels in the income poverty guidelines prescribed by the Secretary and shall not be more than 25 per centum above such family-size income levels. Each fiscal year, each State educational agency shall also prescribe income guidelines, by family size, to be used by schools in the State during the 12-month period from July through June in making determinations of those children eligible for a lunch at a reduced price, not to exceed 20 cents. Such income guidelines for reduced-price lunches shall be prescribed at 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary. Any child who is a member of a household, if that household has an annual income which falls between (A) the applicable family size income level of the income guidelines for free lunches prescribed by the State educational agency and (B) 95 per centum above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary, shall be served a reduced price lunch at a price not to exceed 20 cents. Local school authorities shall publicly announce such income guidelines on or about the opening of school each fiscal year, and shall make determinations with respect to the annual incomes of any household solely on the basis of a statement executed in such form as the Secretary may prescribe by an adult member of such household: *Provided*, That such local school authorities may for cause seek verification of the data in such application. No physical segregation or other discrimination against any child eligible for a free lunch or a reduced price lunch shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published lists of names, or by other means. For purposes of this subsection, "Consumer Price Index" means the Consumer Price Index published each month by the Bureau of Labor Statistics of the Department of Labor.

(2) <sup>21</sup> Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively during any period

<sup>20</sup> Subsection (b) (1) was revised and amended by Public Law 94-105, 89 Stat. 512 veto overridden Oct. 7, 1975.

<sup>21</sup> Subsection (b)(2) was added by Public Law 94-105, 89 Stat. 513, veto overridden Oct. 7, 1975.

(i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for a free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence solely on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

(c) School-lunch programs under this Act shall be operated on a nonprofit basis. Each school shall, insofar as practicable, utilize in its lunch program commodities designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or commodities donated by the Secretary. Commodities purchased under the authority of section 32 of the Act of August 24, 1935 (49 Stat. 774), as amended, may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school-lunch program under this Act as well as to other schools carrying out nonprofit school-lunch programs and institutions authorized to receive such commodities. The Secretary is authorized to prescribe terms and conditions respecting the use of commodities donated under such section 32, under section 416 of the Agricultural Act of 1949, as amended, and under section 709 of the Food and Agriculture Act of 1965, as amended, as will maximize the nutritional and financial contributions of such donated commodities in such schools and institutions. The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any of the provisions of law referred to in the preceding sentence. None of the requirements of this section in respect to the amount for "reduced cost" meals and to eligibility for meals without cost shall apply to schools (as defined in section 12(d)(6) of this Act which are private and nonprofit as defined in the last sentence of section 12(d)(6) of this Act)<sup>22</sup> which participate in the school lunch program under this Act until such time as the State educational agency, or in the case of such schools which participate under the provisions of section 10 of this Act the Secretary certifies that sufficient funds from sources other than children's payments are available to enable such schools to meet these requirements.

#### DISBURSEMENT TO SCHOOLS BY THE SECRETARY

SEC. 10.<sup>23</sup> If, in any State, the State educational agency is not permitted by law to disburse the funds paid to it under this Act to any

<sup>22</sup> Technical amendment made by Public Law 94-105, 89 Stat. 514, veto overridden Oct. 7, 1975.

<sup>23</sup> This section was revised by Public Law 94-105, 89 Stat. 514, veto overridden Oct. 7, 1975, conforming to the revised allocation method for school lunch funds contained in Public Law 92-433, 86 Stat. 724, as well as the expanded definition of school.



of the schools in the State, or is not permitted by law to match Federal funds made available for use by such schools, the Secretary shall disburse the funds directly to such schools within the State for the same purpose and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency, including the requirement that any such payment or payments shall be matched, in the proportion specified in section 7 for such State, by funds from sources within the States expended by such schools within the State participating in the school lunch program under this Act. Such funds shall not be considered a part of the funds constituting the matching funds under the terms of section 7.

#### SPECIAL ASSISTANCE

SEC. 11.<sup>24</sup> (a) Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive special-assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the special-assistance factor for the free lunches prescribed by the Secretary for such fiscal year and the product obtained by multiplying the number of lunches served at a reduced price to children eligible for such reduced-price lunches in schools within that State during such fiscal year by the special-assistance factor for reduced-price lunches prescribed by the Secretary for such fiscal year. For the fiscal year beginning July 1, 1973, the Secretary shall prescribe a special-assistance factor for free lunches of not less than 45 cents and a special-assistance factor for reduced-price lunches which shall be 10 cents less than the special-assistance factor for free lunches. The Secretary shall prescribe on July 1 of each fiscal year, and on January 1, of each fiscal year, semiannual adjustments in the national average rates for lunches served under section 4 of the National School Lunch Act and the special-assistance factor for the lunches served under section 11 of the National School Lunch Act, and the national average rates for breakfasts served under section 4 of the Child Nutrition Act of 1966, as amended, that shall reflect changes in the cost of operating a school lunch and breakfast program under these Acts, as indicated by the change in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor: *Provided*, That the initial such adjustment shall reflect the change in the series for food away from home during the period September 1973, through November 1973: *Provided further*, That each subsequent adjustment shall reflect the changes in the series for food away from home for the most recent six-month period for which such data are available: *Provided further*, That such adjustments shall be computed to the nearest one-fourth cent. Notwithstanding the foregoing two sentences, (1) for the fiscal year

<sup>24</sup> Section 11 was amended by inserting new subsections (a), (b), and (c) and redesignating subsections (g) and (h) as (d) and (e) by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973. New subsections (d) and (e) were inserted by Public Law 87-823, 76 Stat. 946, amended by Public Law 91-248, 84 Stat. 211, approved May 14, 1970.

beginning July 1, 1973, no special-assistance factor under this section 11 shall, for any State, be less than the average reimbursement paid for each free lunch (in the case of the special-assistance factor for free lunches), or for each reduced-price lunch (in the case of the special-assistance factor for reduced price lunches), in such State under this section in the fiscal year beginning July 1, 1972; and (2) adjustments required by the sentence immediately preceding this sentence shall be based on the special-assistance factors for the fiscal year beginning July 1, 1973, as determined without regard to any increase required by the application of this sentence.

(b) Except as provided in section 10 of the Child Nutrition Act of 1966, the special-assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in financing the cost of providing free and reduced-price lunches served to children pursuant to subsection 9(b) of this Act. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amounts established by the Secretary shall not be less than 60 cents.

(c) Special assistance payments to any State under this section shall be made as provided in the last sentence of section 7 of this Act.

(d) In carrying out this section, the terms and conditions governing the operation of the school lunch program set forth in other sections of this Act, including those applicable to funds apportioned or paid pursuant to section 4 or 5 but excluding the provisions of section 7 relating to matching, shall be applicable to the extent they are not inconsistent with the express requirements of this section.

(e)(1)<sup>25</sup> Each year by not later than a date specified by the Secretary, each State educational agency shall submit to the Secretary, for approval by him as a prerequisite to receipt of Federal funds or any commodities donated by the Secretary for use in programs under this Act and the Child Nutrition Act of 1966, a State plan of child nutrition operations for the following school year, which shall include, as a minimum, a description of the manner in which the State educational agency proposes (A) to use the funds provided under this Act and funds from sources within the State to furnish a free or reduced-price lunch to every needy child in accordance with the provisions of section 9; (B) to extend the school-lunch program under this Act to every school within the State, and (C) to use the funds provided under section 13 of this Act and section 4 of the Child Nutrition Act of 1966 and funds from sources within the State to the maximum extent practicable to reach needy children.

(2) Each school participating in the school-lunch program under this Act shall report each month to its State educational agency the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month. Each participating school shall provide an estimate, as of October 1 and March 1 of each year,

<sup>25</sup> The State plan previously was required to be submitted not later than January 1, for the following fiscal year. Changes of these time periods were made by Public Law 94-105, 89 Stat. 514, veto overridden Oct. 7, 1975.



of the number of children who are eligible for a free or reduced price lunch.

(3) The State educational agency of each State shall report to the Secretary each month the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month. Each State educational agency shall provide an estimate as of October 1 and March 1 of each year, of the number of children who are eligible for a free or reduced price lunch.

#### MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12.<sup>26</sup> (a) States, State educational agencies, and schools participating in the school-lunch program under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this Act are being complied with. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) The Secretary shall incorporate, in his agreements with the State educational agencies, the express requirements under this Act with respect to the operation of the school-lunch program under this Act insofar as they may be applicable and such other provisions as in his opinion are reasonably necessary or appropriate to effectuate the purpose of this Act.

(c) In carrying out the provisions of this Act, neither the Secretary nor the State shall impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d)<sup>27</sup> For the purposes of this Act—

(1) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(2) "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State Superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education; except that in the District of Columbia it shall mean the Board of Education.

(3) "Nonfood assistance" means equipment used by schools in storing, preparing, or serving food for school children.

(4)<sup>28</sup> "Participation rate" for a State means a number equal to the number of lunches, consisting of a combination of foods and meeting the minimum requirements prescribed by the Secretary pursuant to section 9, served in the fiscal year beginning two years immediately prior to the fiscal year for which the Federal funds are appropriated by schools participating in the program under this Act in the State, as determined by the Secretary.

<sup>26</sup> This section was previously section 11. Subsections (d) (1) through (4) were amended, and subsections (d) (5) and (6), added, by the act of Oct. 15, 1962, Public Law 87-823, 76 Stat. 945.

<sup>27</sup> Public Law 94-105, 89 Stat. 514-515, veto overridden Oct. 7, 1975, amended section 12(d) to include the Trust Territory of the Pacific Islands in the definition of State; renumbers the subsections, and revises the definition of "School" to include any public or licensed non-profit residential child care institution.

<sup>28</sup> Subsection 12(d)(5) was amended by Public Law 91-248, 84 Stat. 207, approved May 14, 1970.

(5) "Assistance need rate" (A) in the case of any State having an average annual per capita income equal to or greater than the average annual per capita income for all the States, shall be 5; and (B) in the case of any State having an average annual per capita income less than the average annual per capita income for all the States, shall be the product of 5 and the quotient obtained by dividing the average annual per capita income for all the States by the average annual per capita income for such State, except that such product may not exceed 9 for any such State. For the purposes of this paragraph the average annual per capita income for any State and for all the States shall be determined by the Secretary on the basis of the average annual per capita income for each State and for all the States for the three most recent years for which such data are available and certified to the Secretary by the Department of Commerce.

(6) "School" means (A) any public or nonprofit private school of high school grade or under, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.

(e)<sup>29</sup> The value of assistance to children under this Act shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs.

#### SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13.<sup>30</sup> (a)(1) There is hereby authorized to be appropriated such sums as are necessary for the fiscal year ending June 30, 1976, for the period July 1, 1976, through September 30, 1976, and for the fiscal year ending September 30, 1977, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means, to initiate, maintain, and expand nonprofit food service programs for children in service institutions. For purposes of this section, the term "service institutions" means nonresidential public or private, nonprofit institutions, and residential public or private nonprofit summer camps that develop special summer programs providing food service similar to that available to children under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 during the school year. To the maximum extent feasible, consistent with the purposes of this section,

<sup>29</sup> Added by Public Law 94-105, 89 Stat. 515, veto overridden Oct. 7, 1975.

<sup>30</sup> Section 13 was completely revised and amended by Public Law 94-105, 89 Stat. 515-518, veto overridden Oct. 7, 1975. Formerly called Special Food Service Program for Children, section 13 was added by Public Law 90-302, 82 Stat. 117, approved May 8, 1968, and amended by Public Law 91-248, 84 Stat. 210, approved May 14, 1970, Public Law 92-32, 85 Stat. 85, approved June 30, 1971, and Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.

special summer programs shall utilize the existing food service facilities of public and nonprofit private schools. Any eligible service institution shall receive the summer food program upon its request.

(2) Service institutions eligible to participate under the program authorized under this section shall be limited to those which conduct a regularly scheduled program for children from areas in which poor economic conditions exist, for any period during the months of May through September, at site locations where organized recreation activities or food services are provided for children in attendance.

(3) For the purposes of this section, "poor economic conditions" shall mean an area in which at least 33½ per centum of the children are eligible for free or reduced price school meals under the National School Lunch Act and Child Nutrition Act as shown by information provided from model city target areas, departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfast served to children attending schools located in the area of summer food sites, or from other applicable sources. "State" shall mean any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(b) Disbursement to service institutions shall equal the full cost of food service operations, except that such financial assistance to any such institution shall not exceed (1) 75.5 cents for all costs excepting administrative costs for each lunch and supper served, (2) 6 cents for administrative costs for each lunch and supper served, (3) 42 cents for all costs except administrative costs for each breakfast served, (4) 3 cents for administrative costs for each breakfast served, (5) 19.75 cents for all costs except administrative costs for each meal supplement served, and (6) 1.5 cents for administrative costs for each meal supplement served: *Provided*, That the above amounts shall be adjusted each March 1 to the nearest one-fourth cent in accordance with changes for the year ending January 31 in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall reflect the change in the series for food away from home during the period January 31, 1975, to January 31, 1976. The cost of food service operations shall include the cost of obtaining, preparing, and serving food and related administrative costs. No service institution shall be prohibited from serving breakfast, suppers, and meal supplements as well as lunches unless the service period of different meals coincides or overlaps.

(c) Disbursements shall be made to service institutions only for meals served during the months of May through September, except that the foregoing provision shall not apply to institutions which develop food service programs for children on school vacation at any time under a continuous school calendar or prevent such institutions, if otherwise eligible, from participating in the program authorized by this section.

(d) No later than June 1, July 1, and August 1 of each year, the Secretary shall forward to each State an advance payment for meals to be served in that month pursuant to subsection (b), which amount shall be no less than (1) the total payment made to such State for meals served pursuant to subsection (b) for the same calendar month



of the preceding calendar year or (2) 65 per centum of the amount estimated by the State, on the basis of approved applications, to be needed to reimburse service institutions for meals to be served pursuant to subsection (b) in that month, whichever is the greater. The Secretary shall forward any remaining payment due pursuant to subsection (b) no later than 60 days following receipt of valid claims. Any funds advanced to a State for which valid claims have not been established within 180 days shall be deducted from the next appropriate monthly advance payment unless the claimant requests a hearing with the Secretary prior to the 180th day. Institutions operating programs during nonsummer vacations during a continuous school year calendar shall receive advance payments not later than the first day of each month involved.

(e) Service institutions to which funds are disbursed under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served without cost to children attending service institutions approved for operation under this section.

(f) The Secretary shall publish proposed regulations relating to the implementation of the summer food program by January 1 of each fiscal year, and shall publish final regulations, guidelines, applications, and handbooks by March 1 of each fiscal year. In order to improve program planning, the Secretary is authorized to provide that service institutions receive as startup costs not to exceed 10 per centum of the Federal funds provided such service institutions for meals served pursuant to this section during the preceding summer. Any such startup costs shall be subtracted from payments subsequently made to service institutions for meals served pursuant to subsection (b) of this section.

(g) Each participating service institution shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the institution area, or foods donated by the Secretary. Irrespective of the amount of funds appropriated under this section, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), shall be donated by the Secretary to service institutions in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs.

(h) If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any service institution in the State, the Secretary shall disburse the funds directly to service institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(i) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(j) There is hereby authorized to be appropriated such sums as may be necessary for the Secretary's administrative expenses under this section.



(k) The Secretary shall pay to each State for administrative costs incurred pursuant to this section an amount equal to 2 per centum of the funds distributed to that State pursuant to subsection (b): *Provided*, That no State shall receive less than \$10,000 each fiscal year for its administrative costs unless the funds distributed to that State pursuant to subsection (b) total less than \$50,000 for such fiscal year.

(1) Nothing in this section shall be construed as precluding a service institution from contracting on a competitive basis for the furnishing of meals or administration of the program, or both.

(m) States, State educational agencies, and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of 5 years, as the Secretary determines is necessary.

#### TEMPORARY EMERGENCY ASSISTANCE TO PROVIDE NUTRITIOUS MEALS TO NEEDY CHILDREN IN SCHOOLS

SEC. 13A.<sup>31</sup> Notwithstanding any other provision of law, under such terms and conditions as he deems in the public interest, the Secretary of Agriculture is authorized to use an additional amount, not to exceed \$30,000,000, of funds from section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to supplement funds heretofore made available to carry out programs during the fiscal year 1970 to improve the nutrition of needy children in public and nonprofit private schools participating in the national school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1956 (42 U.S.C 1771 et seq.).

#### COMMODITY DISTRIBUTION PROGRAM

SEC. 14.<sup>32</sup> (a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 1977, shall—

(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section, for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966, and title VII of the Older Americans Act of 1965; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily

<sup>31</sup> Section 13A was added by Public Law 91-207, 84 Stat. 51, approved March 12, 1970. Although not deleted by subsequent legislation, the provisions of this section are no longer applicable.

<sup>32</sup> Section 14 was added by Public Law 93-326, 88 Stat. 286, approved June 30, 1974. The program was extended 2 years by Public Law 94-105, 89 Stat. 515, veto overridden Oct. 7, 1975.

available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(b)<sup>33</sup> Among the products to be included in the food donations to the school lunch program shall be cereal and shortening and oil products.

#### NATIONAL ADVISORY COUNCIL

SEC. 15.<sup>34</sup> (a) There is hereby established a council to be known as the National Advisory Council on Child Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of fifteen members appointed by the Secretary. One member shall be a school administrator, one member shall be a person engaged in child welfare work, one member shall be a person engaged in vocational education work, one member shall be a nutrition expert, one member shall be a school food service management expert, one member shall be a State superintendent of schools (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area, one member shall be a State school lunch director (or the equivalent thereof), one member shall be a person serving on a school board, one member shall be a classroom teacher, and four members shall be officers or employees of the Department of Agriculture specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to child food programs.

(b) The eleven members of the Council appointed from outside the Department of Agriculture shall be appointed for terms of three years, except that the nine members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of three years, three members shall be appointed for terms of two years, and three members shall be appointed for terms of one year. Thereafter all appointments shall be for a term of three years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture shall serve at the pleasure of the Secretary.

(c) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(d) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(e) Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(f) It shall be the function of the Council to make a continuing study of the operation of programs carried out under the National School Lunch Act, the Child Nutrition Act of 1966, and any related Act under which meals are provided for children, with a view to determining how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

<sup>33</sup> Subsection (b) was added by Public Law 94-105, 89 Stat. 515, veto overridden Oct. 7, 1975.

<sup>34</sup> Section 15 was added as sec. 14 by Public Law 91-248, 84 Stat. 213, approved May 14, 1970. It was redesignated section 15 by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973. Subsections (a), (b), (c), and (e) were amended by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.

(g) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this Act.

(h) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council.

SEC. 15. (a) In addition to funds appropriated or otherwise available, the Secretary is authorized to use, during the fiscal year ending June 30, 1971, not to exceed \$35,000,000 in funds from Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out the provisions of this Act, and during the fiscal year ending June 30, 1972, not to exceed \$100,000,000 in funds from such section 32 to carry out the provisions of this Act relating to the service of free and reduced-price meals to needy children in schools and service institutions.

(b) Any funds unexpended under this section at the end of the fiscal year ending June 30, 1971, or at the end of the fiscal year ending June 30, 1972, shall remain available to the Secretary in accordance with the last sentence of section 3 of this Act, as amended.

#### ELECTION TO RECEIVE CASH PAYMENTS

SEC. 16.<sup>35</sup> (a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this Act and the Child Nutrition Act of 1966, elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 6(e) of this Act.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such disbursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

#### CHILD CARE FOOD PROGRAM

SEC. 17.<sup>36</sup> (a)(1) There is hereby authorized to be appropriated such sums as are necessary for the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, to enable the Secretary to formulate and carry out a program to assist States through grants-in-aid and other means to initiate, maintain, or expand nonprofit food service programs for children in institutions providing child care.

<sup>35</sup> Section 16 was added by Public Law 94-105, 89 Stat. 515, veto overridden Oct. 7, 1975.

<sup>36</sup> Section 17 was newly created by Public Law 94-105, 89 Stat. 522-525, veto overridden Oct. 7, 1975. The Child Care Food Program is derived from the Special Food Service Program for Children which was created by Public Law 90-302, 82 Stat. 117, approved May 8, 1968, and amended by Public Law 91-248, 84 Stat. 210, approved May 14, 1970, Public Law 92-32, 85 Stat. 85, approved June 30, 1971, and Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.



(2) For purposes of this section, the term "institution" means any public or private nonprofit organization where children are not maintained in permanent residence including, but not limited to, day care centers, settlement houses, recreation centers, family day care programs, Head Start centers, Homestart programs, and institutions providing day care services for handicapped children. No institution shall be eligible to participate in this program unless it has either local, State, or Federal licensing or approval as a child care institution, or can satisfy the Secretary that its standards are no less comprehensive than the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare, the Office of Economic Opportunity, and the Department of Labor on September 23, 1968. An institution may be approved for funding under this section only if, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1954, or is currently operating a federally funded program requiring nonprofit status. For purposes of this section, the term "State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. Any eligible institution shall receive the child care food program upon its request.

(b) For each fiscal year beginning with the fiscal year ending June 30, 1976, the Secretary shall make child care food payments no less frequently than on a monthly basis to each State educational agency in an amount no less than the sum of the products obtained by multiplying (A) the number of breakfasts served in child care food programs within that State by the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966, (B) the number of breakfasts served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for free school meals by the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966, (C) the number of breakfasts served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for reduced price school meals by the national average payment rate for reduced price school breakfasts under section 4 of the Child Nutrition Act of 1966, (D) the number of lunches and suppers served in child care food programs within that State by the national average payment rate for lunches under section 4 of the National School Lunch Act, (E) the number of lunches and suppers served in child care food programs within that State to children from families whose incomes meet the eligibility criteria for free school meals by the national average payment rate for free school lunches under section 11 of the National School Lunch Act, (F) the number of lunches and suppers served in child care food programs in that State to children whose families meet the eligibility criteria for reduced price school meals by the national average payment factor for reduced price lunches under section 11 of the National School Lunch Act, (G) the number of snacks served in child care food programs in that State by 5 cents, (H) the number of snacks served in child care food programs in that State to children from families whose incomes meet the



eligibility criteria for free school meals by 15 cents, and (I) the number of snacks served in child care food programs in that State to children from families whose incomes meet the eligibility criteria for reduced price school meals by 10 cents. The rates established pursuant to clauses (G), (H), and (I) shall be adjusted semiannually to the nearest one-fourth cent by the Secretary to reflect the changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment shall become effective January 1, 1976, and shall reflect changes in the series for food away from home during the period June through November 1975. Reimbursement for meals provided under this section shall not be dependent upon the collection of moneys from participating children.

(c) Meals served by institutions participating in the program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children. No physical segregation or other discrimination against any child shall be made because of his inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or other means. No institution shall be prohibited from serving a breakfast, lunch, dinner, and snack to each eligible child each day.

(d) Funds paid to any State under this section shall be disbursed by the State educational agency to institutions approved for participation on a nondiscriminatory basis to reimburse such institutions for their costs in connection with food service operations, including labor and administrative expenses. All valid claims from such institutions shall be paid within 30 days.

(e) Irrespective of the amount of funds appropriated under this section, foods available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), shall be donated by the Secretary of Agriculture to institutions participating in the child care food program in accordance with the needs as determined by authorities of these institutions for utilization in their feeding programs. The amount of such commodities (or, upon the application of a State educational agency, cash in lieu of commodities in such amounts as may be provided in appropriations Acts) donated to each State for each fiscal year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions during that fiscal year by the rate for commodities and cash in lieu thereof established for that fiscal year in accordance with the provisions of section 6(e) of the National School Lunch Act.

(f) If in any State the State educational agency is not permitted by law or is otherwise unable to disburse the funds paid to it under this section to any institution in the State, the Secretary shall disburse the funds so withheld directly to institutions in the State for the same purpose and subject to the same conditions as are required of a State educational agency disbursing funds made available under this section.

(g) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(h) There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary for the Secretary's administrative expenses under this section.

"(i) States, State educational agencies, and institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of 5 years, as the Secretary determines is necessary.

(j)(1) Of the sums appropriated for any fiscal year pursuant to the authorization contained in this section, \$3,000,000 shall be available to the Secretary for the purposes of providing, during each such fiscal year, nonfood assistance for the child care food program. The Secretary shall apportion among the States during each fiscal year the aforesaid sum of \$3,000,000: *Provided*, That such an apportionment shall be made according to the ratio among the States of the number of children below age 6 who are members of households which have an annual income not above 125 per centum of the applicable family-size income level set forth in the income poverty guideline prescribed by the Secretary under section 9(b) of this Act.

(2) If any State cannot utilize all of the funds apportioned to it under the provisions of this section, the Secretary shall make further apportionments to the remaining States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this section shall be borne by funds from sources within the State, except that such conditions shall not apply with respect to funds used under this section to assist institutions determined by the State to be especially needy.

(k) The regulations issued by the Secretary to carry out this section shall be issued and become effective not later than 90 days after the date of enactment of the National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975. During the period prior to the effective date of the regulations, the Secretary is authorized to conduct a food service program in the same manner and under the same conditions and limitations as the special food service program for children was conducted under section 13 of the National School Lunch Act during the fiscal year ending June 30, 1975. Notwithstanding the foregoing, the child care food payment rates provided in subsection (b) of this section and the provisions of subsection (e) of this section shall become effective on the date of enactment of the National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975.

#### NUTRITION PROGRAM STAFF STUDY

SEC. 18.<sup>37</sup> The Secretary is authorized to carry out a study to determine how States are utilizing Federal funds provided to them for the administration of the child nutrition programs authorized by this Act and the Child Nutrition Act of 1966, and to determine the level of

<sup>37</sup> Section 18 was added by Public Law 94-105, 89 Stat. 527, veto overridden Oct. 7, 1975.



funds needed by the States for administrative purposes. The study shall report on the current size and structure of State staffs, job descriptions and classifications, training provided to such staff, representation of minorities on staffs, and the allocation of staff time, training time, and Federal administrative dollars spent among each of the various child nutrition programs. The study shall assess State needs for additional staff positions, training, and funds, for each of the above areas, including additional State needs to implement adequately the provisions of this Act and the Child Nutrition Act of 1966. The study shall also determine State staffing needs and training program support required to conduct effective outreach for the purpose of reaching the maximum number of eligible children in the summer food service program and the child care food program. As part of this study, the Secretary shall also examine the degree and cause of plate waste in the school lunch program. The Secretary shall examine possible relationships between plate waste and (1) lack of adequate menu development, (2) the service of competitive foods, and (3) the nature of the type A lunch pattern. The Secretary shall review the study design with the appropriate congressional committees prior to its implementation, and shall report his findings together with any recommendations he may have with respect to additional legislation, to the Congress no later than March 1, 1976.

#### APPROPRIATIONS FOR THE TRUST TERRITORY OF THE PACIFIC ISLANDS

SEC. 19.<sup>38</sup> There is hereby authorized to be appropriated (a) for each of the fiscal years beginning July 1, 1975, and October 1, 1976, the sum of \$500,000 and (b) for the period July 1, 1976, through September 30, 1976, the sum of \$125,000, to enable the Secretary to assist the Trust Territory of the Pacific Islands to carry out various developmental and experimental projects relating to programs authorized under this Act and the Child Nutrition Act of 1966 to (1) establish or improve the organizational, administrative, and operational structures and systems at the State and local levels; (2) develop and conduct necessary training programs for school food service personnel; (3) conduct a thorough study of the children's food and dietary habits upon which special meal and nutritional requirements can be developed; and (4) establish and maintain viable school food services which are fully responsive to the needs of the children, and which are consistent with the range of child nutrition programs available to the other States, to the maximum extent possible.

#### STUDY OF COST ACCOUNTING REQUIREMENTS

SEC. 21.<sup>39</sup> (a) The Secretary shall not delay or withhold, or cause any State to delay or withhold, payments for reimbursement of per-meal costs with respect to school food service programs authorized pursuant to the National School Lunch Act and Child Nutrition Act of 1966 on the basis of noncompliance with full cost accounting procedures unless and until the requirements of subsection (b) of this section are met.

<sup>38</sup> Section 19 was added by Public Law 94-105, 89 Stat. 527, veto overridden Oct. 7, 1975.

<sup>39</sup> This section was added by Public Law 94-105, 89 Stat. 527-528, veto overridden Oct. 7, 1975. It is section 21 of Public Law 94-105, and is not part of the National School Lunch Act.



(b) The Secretary shall study the additional personnel and training needs of States, local school districts, and schools resulting from the imposition of a requirement to implement full cost accounting procedures under the National School Lunch Act and Child Nutrition Act of 1966, and, on the basis of the results of such study, shall within one year after the date of enactment of this Act, submit a report and make such legislative recommendations as he deems necessary to the appropriate committees of the Congress.

# CHILD NUTRITION ACT OF 1966

AN ACT To strengthen and expand food service programs for children

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Child Nutrition Act of 1966".<sup>1</sup>

## DECLARATION OF PURPOSE

SEC. 2. In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, based on the years of cumulative successful experience under the national school lunch program with its significant contributions in the field of applied nutrition research it is hereby declared to be the policy of Congress that these efforts shall be extended, expanded, and strengthened under the authority of the Secretary of Agriculture as a measure to safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of agricultural and other foods, by assisting States, through grants-in-aid and other means, to meet more effectively the nutritional needs of our children.

## SPECIAL MILK PROGRAM AUTHORIZATION

SEC. 3.<sup>2</sup> There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year, such sums as may be necessary<sup>3</sup> to enable the Secretary of Agriculture, under such rules and regulations as he may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (1) nonprofit schools of high school grade and under, and (2) nonprofit nursery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children. For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and the District of Columbia.<sup>4</sup>

The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as he administered the special milk program provided for by Public Law 89-642, as amended, during the fiscal year ending June 30, 1969. Any school or nonprofit child care institution shall receive the special milk program upon their request. Children that qualify for free lunches under guidelines set forth by the Secretary shall also be

<sup>1</sup> Public Law 89-642, 80 Stat. 885, approved Oct. 11, 1966.

<sup>2</sup> Amended by Public Law 91-295, 84 Stat. 336, approved June 30, 1970 after the time prescribed by the Constitution of the United States for Presidential approval had expired without such approval.

<sup>3</sup> Amended by Public Law 93-347, 88 Stat. 340, approved July 12, 1974.

<sup>4</sup> The eligibility of the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands for the program was added by Public Law 94-105, 89 Stat. 522, veto overridden Oct. 7, 1975.

eligible for free milk.<sup>5</sup> For the fiscal year ending June 30, 1975, and for subsequent fiscal years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each fiscal year thereafter, beginning with the fiscal year ending June 30, 1976, to reflect changes in the series of food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent.<sup>6</sup> Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.<sup>7</sup>

#### SCHOOL BREAKFAST PROGRAM AUTHORIZATION

SEC. 4.<sup>8</sup> (a)<sup>9</sup> There is hereby authorized to be appropriated such sums as are necessary to enable the Secretary to carry out a program to assist the States through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this Act. Appropriations and expenditures for this Act shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

#### APPORTIONMENT TO STATES

(b)<sup>10</sup> Of the funds appropriated for the purposes of this section, the Secretary shall for the fiscal year ending June 30, 1973, (1) apportion \$2,600,000 equally among the States other than Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, and \$45,000 equally among Guam, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands, and (2) apportion the remainder among the States in accordance with the apportionment formula contained in section 4 of the National School Lunch Act, as amended. For each fiscal year beginning with the fiscal year ending June 30, 1974, the Secretary shall make breakfast assistance payments, at such times as he may determine, from the sums appropriated therefor, to each State educational agency, in a total amount equal to the result obtained by (1) multiplying the number of breakfasts (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection (e) of this section) served during such fiscal year to children in schools in such States which participate in the breakfast program under this section under agreements with such State educational agency by a national average breakfast payment

<sup>5</sup> This sentence was added by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.

<sup>6</sup> The last two sentences were added by Public Law 93-347, 88 Stat. 340, approved July 12, 1974.

<sup>7</sup> This sentence was added by Public Law 94-105, 89 Stat. 522, veto overridden Oct. 7, 1975.

<sup>8</sup> Amended by Public Law 90-302, 82 Stat. 119, approved May 8, 1968.

<sup>9</sup> Amended by Public Law 92-32, 85 Stat. 85, approved June 30, 1971, and by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972. The program was made permanent by Public Law 94-105, 89 Stat. 511, veto overridden Oct. 7, 1975.

<sup>10</sup> Amended by Public Law 94-105, 89 Stat. 522, veto overridden Oct. 7, 1975.



prescribed by the Secretary for such fiscal year to carry out the purposes of this section; (2) multiplying the number of such breakfasts served free to children eligible for free breakfasts in such schools during such fiscal year by a national average free breakfast payment prescribed by the Secretary for such fiscal year to carry out the purposes of this section; and (3) multiplying the number of reduced price breakfasts served to children eligible for reduced price breakfasts in such schools during such fiscal year by a national average reduced price breakfast payment prescribed by the Secretary for such fiscal year to carry out the provisions of this section: *Provided*, That in any fiscal year the aggregate amount of the breakfast assistance payments made by the Secretary to each State educational agency for any fiscal year shall not be less than the amount of the payments made by the State educational agency to participating schools within the State for the fiscal year ending June 30, 1972, to carry out the purposes of this section. The national average payment established by the Secretary for all breakfasts served to eligible children shall not be less than 8 cents; an amount of not less than 15 cents shall be added for each reduced-price breakfast; and an amount of not less than 20 cents shall be added for each free breakfast. In cases of severe need, a payment of up to 45 cents may be made for each breakfast served to children qualifying for a free breakfast.<sup>11</sup>

#### STATE DISBURSEMENT TO SCHOOL

(c)<sup>12</sup> Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in financing the costs of operating a breakfast program and for the purpose of subsection (d). Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substantial proportion of the children enrolled must travel long distances daily, and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families. Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

(d)<sup>13</sup> In circumstances of severe need where the rate per meal established by the Secretary is deemed by him insufficient to carry on an effective breakfast program in a school, the Secretary may authorize financial assistance up to 100 per centum of the operating costs of such a program, including costs of obtaining, preparing, and serving food. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance.

<sup>11</sup> The last two sentences were added by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.

<sup>12</sup> Subsection (c) was amended by Public Law 92-32, 85 Stat. 85, approved June 30, 1971 and again by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973.

<sup>13</sup> Subsections (c) and (d) were amended by Public Law 92-32, 85 Stat. 85, approved June 30, 1971.

## NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

(e)<sup>14</sup> Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such breakfasts shall be served free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 9 of the National School Lunch Act.

## NONPROFIT PRIVATE SCHOOLS

(f) <sup>15</sup> For the fiscal year ending June 30, 1973, any withholding of funds for and disbursement to nonprofit private schools shall be effected in the manner used prior to such fiscal year. Beginning with the fiscal year ending June 30, 1974, the Secretary shall make payments from the sums appropriated for any fiscal year for the purposes of this section directly to the schools (as defined in section 15(c) of this Act which are private and nonprofit as defined in the last sentence of section 15(c) of this Act) within a State, that participate in the breakfast program under an agreement with the Secretary, for the same purposes and subject to the same conditions as are authorized or required under this section with respect to the disbursements by State educational agencies.

(g) <sup>16</sup> As a national nutrition and health policy, it is the purpose and intent of the Congress that the school breakfast program be made available in all schools where it is needed to provide adequate nutrition for children in attendance. The Secretary is hereby directed, in cooperation with State educational agencies, to carry out a program of information in furtherance of this policy. Within 4 months after the enactment of this subsection, the Secretary shall report to the committees of jurisdiction in the Congress his plans and those of the cooperating State agencies to bring about the needed expansion in the school breakfast program.

## NONFOOD ASSISTANCE PROGRAM AUTHORIZATION

SEC. 5.<sup>17</sup> (a) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1971, not to exceed \$38,000,000 for the fiscal year ending June 30, 1972, not to exceed \$33,000,000, for each of the three fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, not to exceed \$40,000,000 and for each succeeding fiscal year, not to exceed \$40,000,000, to enable the Secretary to formulate and carry out a program to assist the States through grants-in-aid and other means to supply schools drawing attendance from areas in which poor economic conditions exist with equipment, other than land or buildings, for the storage, preparation, transportation, and serving of food to enable such schools to establish, maintain, and expand school food

<sup>14</sup> Subsections (e) and (f) were amended by Public Law 91-248, 84 Stat. 210, approved May 14, 1970, and by Public Law 92-32, and by Public Law 92-433, 86 Stat. 724, Sept. 26, 1972.

<sup>15</sup> Conforming amendment made by Public Law 94-105, 89 Stat. 525, veto overridden Oct. 7, 1975.

<sup>16</sup> Subsection (g) was added by Public Law 94-105, 89 Stat. 511, veto overridden Oct. 7, 1975.

<sup>17</sup> Subsection (a) was amended by Public Law 91-248, 84 Stat. 210, approved May 14, 1970, and Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972. Subsec. (a) was amended by Public Law 91-248. Further amended by Public Law 92-433.

service programs. In the case of a nonprofit private school, such equipment shall be for use of such school principally in connection with child feeding programs authorized in this Act and in the National School Lunch Act, as amended, and in the event such equipment is no longer so used, it may be transferred to another nonprofit private school participating in any of such programs or to a public school participating in any of such programs, or, failing either of these dispositions, that part of such equipment financed with Federal funds, or the residual value thereof, shall revert to the United States.

(b) Except for the funds reserved under subsection (e) of this section, the Secretary shall apportion the funds appropriated for the purposes of this section among the States on the basis of the ratio that the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9 of the National School Lunch Act) served in each State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are apportioned bears to the total number of such lunches served in all States in such preceding fiscal year. If any State cannot utilize all of the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States in the manner set forth in this subsection for apportioning funds among all the States. Payments to any State of funds apportioned under the provisions of this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be borne by funds from sources within the State, except that such conditions shall not apply with respect to funds used under this section to assist schools if such schools are especially needy as determined by the State.<sup>18</sup>

#### STATE DISBURSEMENT TO SCHOOLS

(c) Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to assist schools, which draw attendance from areas in which poor economic conditions exist and which have no, or grossly inadequate equipment, to conduct a school food service program, and to acquire such equipment. In the selection of schools to receive assistance under this section, the State educational agency shall require applicant schools to provide justification of the need for such assistance and the inability of the school to finance the food service equipment needed. Disbursements to any school may be made by advances or reimbursements, only after approval by the State educational agency of a request by the school for funds, accompanied by a detailed description of the equipment to be acquired and the plans for the use thereof in effectively meeting the nutritional needs of children in the school.

#### NONPROFIT PRIVATE SCHOOLS

(d)<sup>19</sup> If, in any State, the State educational agency is prohibited by law from administering the program authorized by this section in nonprofit private schools within the State, the Secretary shall administer

<sup>18</sup> The exception in this sentence was made by Public Law 94-105, 89 Stat. 525, veto overridden Oct. 7, 1975.

<sup>19</sup> Subsections 5 (d) and (e) were amended by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972.



such program in such private schools. In such event, the Secretary shall withhold from the funds apportioned to any such State under the provisions of subsection (b) of this section an amount which bears the same ratio to such funds as the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to section 9(a) of the National School Lunch Act) served in nonprofit private schools in such State in the latest preceding fiscal year for which the Secretary determines data are available at the time such funds are withheld bears to the total number of such lunches served in all schools within such State in such preceding fiscal year.

(e) <sup>20</sup> For the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, and the fiscal year ending September 30, 1977, 33 $\frac{1}{3}$  per centum of the funds appropriated for the purposes of this section shall be reserved to the Secretary to assist schools without a food service program and schools without the facilities, to prepare or receive hot meals. For the fiscal year ending June 30, 1976, the Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program to the number of children in all States enrolled in schools without a food service program. After the fiscal year ending June 30, 1976, the Secretary shall apportion the funds so reserved among the States on the basis of the ratio of the number of children in each State enrolled in schools without a food service program and in schools without the facilities to prepare or receive hot meals to the number of children in all States enrolled in schools without a food service program and in schools without the facilities to prepare or receive hot meals. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall, for the fiscal year ending June 30, 1976, withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program in such State bears to the total number of children enrolled in all schools without a food service program in such State. In those States in which the Secretary administers the nonfood assistance program in nonprofit private schools, the Secretary shall, after the fiscal year ending June 30, 1976, withhold from the funds apportioned to any such State under this subsection an amount which bears the same ratio to such funds as the number of children enrolled in nonprofit private schools without a food service program or without the facilities to prepare or receive hot meals in such State bears to the total number of children enrolled in all schools without a food service program or without the facilities to prepare or receive hot meals in such State. The funds so reserved, apportioned, and withheld shall be used by State education agencies, or the Secretary in the case of nonprofit private schools, only to assist schools without a food service program and schools without the facilities to prepare or receive hot meals. If any State cannot so utilize all the funds apportioned to it under the provisions of this subsection, the Secretary shall make further apportionments to the remaining States for use only in assisting

<sup>20</sup> Subsection (e) was revised and amended by Public Law 94-105, 89 Stat. 525-526, veto overridden Oct. 7, 1975. Effective date of this subsection begins with the fiscal year ending June 30, 1976.

schools without a food service program and schools without the facilities to prepare or receive hot meals: *Provided*, That if after such further apportionments any funds reserved under this subsection remain unused, the Secretary shall immediately apportion such funds among the States in accordance with the provisions of subsection (b) of this section to assist schools with a food service program and with the facilities to prepare or receive hot meals. Payment to any State of the funds provided to it under the provisions of this subsection shall be made upon the condition that at least one-fourth of the cost of the equipment financed shall be borne by funds from sources within the State, except that such condition shall not apply with respect to funds used under this subsection to assist schools which are especially needy, as determined by the State.

#### PAYMENTS TO STATES

SEC. 6. The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under sections 3 through 7 of this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

#### STATE ADMINISTRATIVE EXPENSES

SEC. 7.<sup>21</sup> The Secretary may utilize funds appropriated under this section for advances to each State educational agency for use for its administrative expenses or for the administrative expenses of any other designated State agency in supervising and giving technical assistance to the local school districts and service institutions in their conducting of programs under this Act and under sections 11 and 13 of the National School Lunch Act. Such funds shall be advanced only in amounts and to the extent determined necessary by the Secretary to assist such State agencies in the administration of additional activities undertaken by them under sections 11 and 13 of the National School Lunch Act, as amended, and sections 4 and 5 of this Act including additional activities undertaken in the distribution of donated commodities. There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

#### UTILIZATION OF FOODS

SEC. 8. Each school participating under section 4 of this Act shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 774) as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this Act.

<sup>21</sup> Section 7 was amended by Public Law 90-302, 82 Stat. 119, approved May 8, 1968, further amended by Public Law 91-243, 84 Stat. 210, approved May 14, 1970.

## NONPROFIT PROGRAMS

SEC. 9. The food and milk service programs in schools and nonprofit institutions receiving assistance under this Act shall be conducted on a nonprofit basis.

## REGULATIONS

SEC. 10.<sup>22</sup> The Secretary shall prescribe such regulations as he may deem necessary to carry out this Act and the National School Lunch Act, including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this Act and the National School Lunch Act. Such regulations shall not prohibit the sale of competitive foods in food service facilities or areas during the time of service of food under this Act or the National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools. In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this Act and the National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects.

## PROHIBITIONS

SEC. 11. (a) In carrying out the provisions of sections 3 through 5 of this Act, neither the Secretary nor the State shall impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

(b) The value of assistance to children under this Act shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this Act.

## PRESCHOOL PROGRAMS

SEC. 12. The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

## CENTRALIZATION OF ADMINISTRATION

SEC. 13. Authority for the conduct and supervision of Federal programs to assist schools in providing food service programs for children is assigned to the Department of Agriculture. To the extent practicable, other Federal agencies administering programs under which funds are to be provided to schools for such assistance shall transfer such funds to the Department of Agriculture for distribution through the administrative channels and in accordance with the standards established under this Act and the National School Lunch Act.

<sup>22</sup> Section 10 was amended by Public Law 91-248, and by Public Law 92-433, 86 Stat. 724, Sept. 26, 1972:



SEC. 14. There is hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for his administrative expense under this Act.

#### MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 15. For the purposes of this Act—

(a)<sup>23</sup> "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

(b) "State educational agency" means, as the State legislature may determine, (1) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (2) a board of education controlling the State department of education.

(c)<sup>24</sup> "School" means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded), and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico. For purposes of clauses (A) and (B) of this subsection, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954.

(d) "Secretary" means the Secretary of Agriculture.

#### ACCOUNTS AND RECORDS

SEC. 16. States, State educational agencies, schools, and nonprofit institutions participating in programs under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this Act and the regulations hereunder. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary.

#### SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 17.<sup>25</sup> (a) The Congress finds that substantial numbers of pregnant women, infants, and young children are at special risk in respect to their physical and mental health by reason of poor or inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide supplemental nutritious food as an adjunct to good health care during such critical times of growth and development in order to prevent the occurrence of health problems.

<sup>23</sup> Subsection (a) was amended by Public Law 94-105, 89 Stat. 522, Veto overridden Oct. 7, 1975.

<sup>24</sup> The definition of school was expanded to include any public or licensed nonprofit private residential child care institution by Public Law 94-105, 89 Stat. 525, veto overridden Oct. 7, 1975.

<sup>25</sup> Section 17 was revised and amended by Public Law 94-105, 89 Stat. 518-522, veto overridden Oct. 7, 1975. This section was created by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972, and amended by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973, and Public Law 93-326, 88 Stat. 286, approved June 30, 1974.

(b)(1) During the fiscal year ending June 30, 1976, the period July 1, 1976, through September 30, 1976, the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, the Secretary shall make cash grants to the health department or comparable agency of each State, Indian tribe, band or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare for the purpose of providing funds to local health or welfare agencies or private non-profit agencies of such State; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare, serving local health or welfare needs to enable such agencies to carry out health and nutrition programs under which supplemental foods will be made available to pregnant or lactating women and to infants determined by competent professionals to be nutritional risks because of inadequate nutrition and inadequate income, in order to improve their health status. The program authorized by this section shall be carried out supplementary to the food stamp and food distribution program and operate side by side with existing supplemental food programs.

(2) Any eligible local health or welfare agency or private non-profit agency that applies to operate such a supplemental food program immediately shall be provided with the necessary funds to carry out the program. The requirements set forth herein shall not be construed to permit the Secretary to reduce ratably the amount of foods that an eligible health or welfare agency shall distribute under the program to pregnant or lactating mothers and infants.

(c) In order to carry out such program during each fiscal year during the period ending September 30, 1977, there is authorized to be appropriated the sum of \$250,000,000, but in the event that such sum has not been appropriated for such purpose by the beginning of each fiscal year, the Secretary shall use \$250,000,000, or, if any amount has been appropriated for such program, the difference, if any between the amount directly appropriated for such purpose and \$250,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c). Any funds expended from such section 32 to carry out the provisions of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out the provisions of such subsection, and such reimbursements shall be deposited into the fund established pursuant to such section 32, to be available for the purpose of such section. In order to carry out the program during the fiscal year ending September 30, 1978, there is authorized to be appropriated not to exceed \$250,000,000.

(d) Whenever any program is carried out by the Secretary under authority of this section through any State or local or nonprofit agency, he is authorized to pay administrative costs not to exceed 20 per centum of the program funds provided to each State under the authority of this section. Each health department or comparable agency of each State, Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare receiving funds from the Secretary under this section shall, by January 1 of each year (by December 1 in the case of fiscal year 1976), for approval by the Secretary as a prerequisite to receipt of funds under this section, submit



a description of the manner in which administrative funds shall be spent, including, but not limited to, a description of the manner in which nutrition education services will be provided. The Secretary shall take affirmative action to insure that programs begin in areas most in need of special supplemental food. During the first 3 months of any program, or until the program reaches its projected caseload level, whichever comes first, the Secretary shall pay those administrative costs necessary to commence the program successfully.

(e) The eligibility of persons to participate in the program provided for under this section shall be determined by competent professional authority. Participants shall be residents of areas or members of populations served by clinics or other health facilities determined to have significant numbers of infants and pregnant and lactating women at nutritional risk.

(f) State or local agencies or groups carrying out any programs under this section shall maintain adequate medical records on the participants assisted to enable the Secretary to determine and evaluate the benefits of the nutritional assistance provided under this section. The Secretary shall convene an advisory committee made up of representatives from the Maternal and Child Health Division of the Department of Health, Education, and Welfare, the Center for Disease Control, the Association of State and Territorial Public Health Nutrition Directors, the American Academy of Pediatrics, the National Academy of Science—National Research Council, the American Dietetic Association, the American Public Health Association, the Public Health Service, and others as the Secretary deems appropriate. The committee shall study the methods available to evaluate successfully and economically, in part or in total, the health benefits of the special supplemental food program. The committee's study shall consider the usefulness of the medical data collected and the methodology used by the Department of Agriculture and the Comptroller General of the United States prior to March 30, 1975. The study shall also include the applicability to an evaluation of the special supplemental food program of other Federal and State health, welfare, and nutrition assessment and surveillance projects currently being conducted. The purpose of the advisory committee shall be to determine and recommend in detail how, using accepted scientific methods, the health benefits of the special supplemental food program may best be evaluated and assessed. The advisory committee shall report its study to the Secretary no later than March 1, 1976. The Secretary shall submit to Congress his recommendations based on such study no later than June 1, 1976.

(g) As used in this section—

(1) "Pregnant and lactating women" when used in connection with the term "at nutritional risk" includes women from low-income populations who demonstrate one or more of the following characteristics: known inadequate nutritional patterns, unacceptably high incidence of anemia, high prematurity rates, or inadequate patterns of growth (underweight, obesity, or stunting). Such term (when used in connection with the term "at nutritional risk") also includes low-income individuals who have a history of high-risk pregnancy as evidenced by abortion, premature birth, or severe anemia. Such lactating women shall include women who are breast feeding an infant from birth up to one year of age and also all women for a period of six months post partum.



(2) "Infants" when used in connection with the term "at nutritional risk" means children under 5 years of age who are in low-income populations which have shown a deficient pattern of growth, by minimally acceptable standards, as reflected by an excess number of children in the lower percentiles of height and weight. Such term, when used in connection with "at nutritional risk", may also include children under 5 years of age who (A) are in the parameter of nutritional anemia, or (B) are from low-income populations where nutritional studies have shown inadequate infant diets.

(3) "Supplemental foods" shall mean those foods containing nutrients known to be lacking in the diets of populations at nutritional risk and, in particular, those foods and food products containing high-quality protein, iron, calcium, vitamin A, and vitamin C. Such term may also include (at the discretion of the Secretary) any commercially formulated preparation specifically designed for women or infants. The contents of the food package shall be made available in such a manner as to provide flexibility, taking into account medical and nutritional objectives and cultural eating patterns.

(4) "Competent professional authority" includes physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials as being competent professionally to evaluate nutritional risk.

(5) "Administrative costs" include costs for referral, operation, monitoring, nutrition education, general administration, startup, clinic, and administration of the State office.

(h)(1) There is hereby established a council to be known as the National Advisory Council on Maternal, Infant, and Fetal Nutrition (hereinafter in this section referred to as the "Council") which shall be composed of 15 members appointed by the Secretary. One member shall be a State director of the special supplemental food program, 1 member shall be a State fiscal director for the special supplemental food program (or the equivalent thereof), 1 member shall be a State health officer (or equivalent thereof), 1 member shall be a project director of a special supplemental food program in an urban area, 1 member shall be a project director of a special supplemental food program in a rural area, 1 member shall be a State public health nutrition director (or equivalent thereof), 2 members shall be parent recipients of the special supplemental food program, 1 member shall be a pediatrician, 1 member shall be an obstetrician, 1 member shall be a person involved at the retail sales level of food in the special supplemental food program, 2 members shall be officers or employees of the Department of Health, Education, and Welfare, specially qualified to serve on the Council because of their education, training, experience, and knowledge in matters relating to maternal, infant, and fetal nutrition, and 2 members shall be officers or employees of the Department of Agriculture, specially qualified because of their education, training, experience, and knowledge in matters relating to maternal, infant, and fetal nutrition.

(2) The 11 members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms of 3 years, except that the

9 members first appointed to the Council shall be appointed as follows: Three members shall be appointed for terms of 3 years, 3 members shall be appointed for terms of 2 years, and 3 members shall be appointed for terms of 1 year. Thereafter all appointments shall be for a term of 3 years, except that a person appointed to fill an unexpired term shall serve only for the remainder of such term. Members appointed from the Department of Agriculture and the Department of Health, Education, and Welfare, shall serve at the pleasure of the Secretary.

(3) The Secretary shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Council.

(4) The Council shall meet at the call of the Chairman but shall meet at least once a year.

(5) Eight members shall constitute a quorum and a vacancy on the Council shall not affect its powers.

(6) It shall be the function of the Council to make a continuing study of the operation of the special supplemental food program and any related Act under which diet supplementation is provided to women, infants, and children, with a view to determine how such programs may be improved. The Council shall submit to the President and the Congress annually a written report of the results of its study together with such recommendations for administrative and legislative changes as it deems appropriate.

(7) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions under this Act.

(8) Members of the Council shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council.

#### CASH GRANTS FOR NUTRITION EDUCATION

SEC. 18.<sup>26</sup> (a) The Secretary is hereby authorized and directed to make cash grants to State educational agencies for the purpose of conducting experimental or demonstration projects to teach school-children the nutritional value of foods and the relationship of nutrition to human health.

(b) In order to carry out the program, provided for in subsection (a) of this section, there is hereby authorized to be appropriated not to exceed \$1,000,000 annually. The Secretary shall withhold not less than 1 per centum of any funds appropriated under this section and shall expend these funds to carry out research and development projects relevant to the purpose of this section, particularly to develop materials and techniques for the innovative presentation of nutritional information.

<sup>26</sup> Section 18 was added by Public Law 94-105, 89 Stat. 528, veto overridden Oct. 7, 1975.





## RELATED PROVISIONS OF LAW

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### SECTION 10—NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACT AMENDMENTS OF 1973

(PUBLIC LAW 93-150)<sup>1</sup>

#### COMPREHENSIVE STUDY OF BENEFITS OF PROGRAMS

SEC. 10.<sup>2</sup> The Secretary of Agriculture is authorized and directed to carry out a comprehensive study to determine if the benefits of programs carried out under the National School Lunch Act and Child Nutrition Act are accruing to the maximum extent possible to all of the nation's school children, including a study to determine if those most in need are receiving free lunches, and to determine if significant regional cost differentials exist in Alaska and other States so as to require additional reimbursement. The Secretary shall report his findings, together with any recommendations he may have with respect to additional legislation, to the Congress no later than June 30, 1974. The Secretary shall consider any recommendations made by the Department of Health, Education, and Welfare, the General Accounting Office, the National Advisory Council on Child Nutrition, and interested professional organizations or individuals in the field of child care and nutrition. Alternatives to the present structure, including but not limited to the universal feeding program, shall be included in the study.

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### SECTION 4—ACT OF SEPTEMBER 26, 1972

(PUBLIC LAW 92-433)<sup>3</sup>

#### ADDITIONAL MISCELLANEOUS PROVISIONS

SEC. 4.<sup>4</sup> (a) Notwithstanding any other provision of law, the Secretary of Agriculture shall until such time as a supplemental appropriation may provide additional funds for such purpose use so much of the funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c)), as may be necessary, in addition to the funds available therefor, to carry out the purposes of section 4 of the National

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<sup>1</sup> Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973, provides additional Federal financial assistance to the school lunch and school breakfast programs.

<sup>2</sup> Section 10 was added by Public Law 93-150, 87 Stat. 560, approved Nov. 7, 1973. The report, "Comprehensive Study of the Child Nutrition—July 1974," was printed Sept. 10, 1974.

<sup>3</sup> Public Law 92-433, 86 Stat. 724, assures that adequate funds are available for the conduct of summer food service programs for children, and for other purposes related to expanding and strengthening the child nutrition programs.

<sup>4</sup> Section 4 was added by Public Law 92-433, 86 Stat. 724, approved Sept. 26, 1972. This provision expired with fiscal year 1973.

School Lunch Act and provide an average rate of reimbursement of not less than 8 cents per meal within each State during the fiscal year 1973. Funds expended under the foregoing provisions of this section shall be reimbursed out of any supplemental appropriation hereafter enacted for the purpose of carrying out section 4 of the National School Lunch Act, and such reimbursements shall be deposited into the fund established pursuant to section 32 of the Act of August 24, 1935 to be available for the purposes of said section 32.

(b) Funds made available pursuant to this section shall be apportioned to the States in such manner as will best enable schools to meet their obligations with respect to the service of free and reduced-price lunches and to meet the objective of this section with respect to providing a minimum rate of reimbursement under section 4 of the National School Lunch Act, and such funds shall be apportioned and paid as expeditiously as may be practicable.

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## SECTION 7—ACT OF NOVEMBER 5, 1971

(PUBLIC LAW 92-153) <sup>5</sup>

SEC. 7. In addition to any other authority given to the Secretary he is hereby authorized to transfer funds from section 32 of the Act of August 24, 1935, for the purpose of assisting schools which demonstrate a need for additional funds in the school breakfast program.

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<sup>5</sup> Public Law 92-153, 85 Stat. 419, approved Nov. 5, 1971, was a joint resolution to assure that every needy schoolchild receive a free or reduced price lunch as required by section 9 of the National School Lunch Act.

[NOTE.—With the exception of section 4 of this Act which amends section 11(e) of the National School Lunch Act, and section 7 *supra*, Public Law 92-153 expired June 30, 1971.]

## AUTHORITIES FOR COMMODITY DISTRIBUTION

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### SECTION 32—ACT OF AUGUST 24, 1935

(PUBLIC LAW 74-320) <sup>1</sup>

SEC. 32. There is hereby appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936, an amount equal to 30 per centum of the gross receipts from duties collected under the customs laws during the period January 1 to December 31, both inclusive, preceding the beginning of each such fiscal year.<sup>2</sup> Such sums shall be maintained in a separate fund and shall be used by the Secretary of Agriculture only to (1) encourage the exportation of agricultural commodities and products thereof by the payment of benefits in connection with the exportation thereof or of indemnities for losses incurred in connection with such exportation or by payments to producers in connection with the production of that part of any agricultural commodity required for domestic consumption; (2) encourage the domestic consumption of such commodities or products by diverting them, by the payment of benefits of indemnities or by other means, from the normal channels of trade and commerce or by increasing their utilization through benefits, indemnities, donations or by other means, among persons in low-income groups as determined by the Secretary of Agriculture; and (3) reestablish farmers' purchasing power by making payments in connection with the normal production of any agricultural commodity for domestic consumption. Determinations by the Secretary as to what constitutes diversion and what constitutes normal channels of trade and commerce and what constitutes normal production for domestic consumption shall be final.

The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more

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<sup>1</sup> The Act of August 24, 1935, 49 Stat. 750, 744. Although this section has been amended a number of times. The purposes of section 32—through payments or indemnities is to encourage the exportation and domestic consumption of agricultural commodities and products and to reestablish farmers' purchasing power in connection with the normal production of agricultural commodities—remains basically the same since February 29, 1936. Authority to encourage consumption of agricultural commodities and products by their utilization among persons in low-income groups was added by amendment of clause (2) in 1939 (53 Stat. 975). Later amendments are noted.

Surplus agricultural commodities purchased under clause (2) may be donated for relief purposes and for use in nonprofit summer camps for children under the Act of June 28, 1937, and may be donated to schools and service institutions under sections 9 and 13 of the National School Lunch Act, as amended, and section 8 of the Child Nutrition Act of 1966.

<sup>2</sup> Section 205 of the Agricultural Act of 1956 authorized the appropriation for each fiscal year, beginning with the fiscal year ending June 30, 1957, of \$500,000,000 to enable the Secretary of Agriculture to further carry out the provisions of section 32, subject to all provisions of law relating to the expenditure of funds appropriated by such section, except that up to 50 percent of the \$500,000,000 may be devoted during any fiscal year to any one agricultural commodity or the products thereof.



of the purposes of this section.<sup>3</sup> Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 20 per centum of the funds available under this section for such fiscal year. The sums appropriated under this section shall be devoted principally to perishable non-basic agricultural commodities (other than those receiving price support under title II of the Agricultural Act of 1949)<sup>4</sup> and their products.<sup>5</sup> The sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this section until expended; but any excess of the amount remaining unexpended at the end of any fiscal year over \$300,000,000 shall, in the same manner as though it had been appropriated for the service of such fiscal year, be subject to the provisions of section 3690<sup>6</sup> of the Revised Statutes (U.S.C., title 31, sec. 712), and section 5<sup>6</sup> of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending, June thirtieth, eighteen hundred and seventy-five and for other purposes" (U.S.C., title 31, sec. 714).<sup>7</sup> (7 U.S.C. 612c).

## SECTION 4—AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

(PUBLIC LAW 93-347)

SEC. 4.<sup>8</sup> (a)<sup>9</sup> (1) Notwithstanding any other provision of law, the Secretary of Agriculture shall until July 1, 1975, (i) use funds available under provisions of section 32 of Public Law 320, Seventy-fourth Congress, as amended (7 U.S.C. 612c), and not otherwise expended or necessary for such purposes to purchase, without regard to the provisions of existing law governing the expenditure of public funds, agricultural commodities and their products of the types customarily purchased under section 32 (which may include seafood commodities and their products) to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to needy families pending the transition to the food stamp program, institutions, supplemental feeding programs wherever located, disaster relief, summer camps for children, and the family commodity distribution program on Indian reservations not requesting a food stamp program, and (ii) if stocks of the Commodity Credit Corporation are not available, use the funds of the Corporation to purchase agricultural commodities and their products of the types

<sup>3</sup> For the administration of section 32, not to exceed 4 percent of the total amount available for such section in any fiscal year may be used for that purpose under the limitation contained in section 392(b) of the Agricultural Act of 1938, as amended.

<sup>4</sup> The clause within the parentheses was substituted for "other than those designated in title II of the Agricultural Act of 1949" by section 5 of the Act of Jan. 30, 1954, 68 Stat. 4.

<sup>5</sup> This sentence was added by section 411 of the Agricultural Act of 1949, 63 Stat. 1057.

<sup>6</sup> Superseded by the Act of July 6, 1949, 63 Stat. 407, 31 U.S.C. 712a, and the Act of July 25, 1956, 70 Stat. 647, as amended, 31 U.S.C. 701-708.

<sup>7</sup> This sentence was added by section 301 of the Agricultural Act of 1948, July 3, 1948, 62 Stat. 1257. See section 392(b) of the Agricultural Adjustment Act of 1938, as amended, for limitation on administrative expenses.

<sup>8</sup> Section 4 was enacted by Public Law 93-86, 87 Stat. 221, approved Aug. 10, 1973.

<sup>9</sup> Subsection (a) has been substituted by Public Law 93-347, 88 Stat. 340, approved July 12, 1974; subsection (a)(1) expired July 1, 1975.

customarily available under section 416 of the Agricultural Act of 1949 to meet such requirements.

(2) Notwithstanding any other provision of law, the Secretary of Agriculture shall, during each of the two fiscal years beginning July 1, 1975, and ending June 30, 1977, purchase agricultural commodities and otherwise carry out the provisions of this subsection with funds appropriated from the general fund of the Treasury. There are hereby authorized to be appropriated such funds as may be necessary to carry out the provisions of this paragraph. Authority provided in this paragraph shall be carried out only with such funds as are appropriated from the general fund of the Treasury for that specific purpose, and in no event shall it be carried out with funds derived from permanent appropriations.

(b) The Secretary is prohibited from furnishing commodities to summer camps as authorized under section 416 of the Agricultural Act of 1949, section 32 of Public Law 74-320, and section 709 of the Food and Agriculture Act of 1965 if the number of adults participating in the activities of such camp is in excess of one for each five children under 18 years of age participating in such activities.

(c) No individual who receives supplemental security income benefits under title XVI of the Social Security Act shall be considered to be a member of a household for any purpose of the Food Distribution Program for families under section 32 of Public Law 74-320, section 416 of the Agricultural Act of 1949, or other law for any month if such person receives for such month, as part of his supplemental security income benefits or payments described in section 1616(a) of the Social Security Act (if any), an amount equal to the bonus value of food stamps (according to the Food Stamp Schedule effective for July 1973) in addition to the amount of assistance such individual would be entitled to receive for such month under the provisions of the plan of the State approved under title I, X, XIV, or XVI, as appropriate, in effect for December 1973, assuming such plan were in effect for such month and such individual were aged, blind, or disabled, as the case may be, under the provisions of such State plan or under Public Law 92-603 as amended. The Secretary of Health, Education, and Welfare shall issue regulations for the implementation of the foregoing sentence after consultation with the Secretary of Agriculture.

## SECTION 416—AGRICULTURAL ACT OF 1949

(PUBLIC LAW 81-439)

### DISPOSITION OF COMMODITIES TO PREVENT WASTE

SEC. 416.<sup>10</sup> In order to prevent the waste of commodities whether in private stocks or <sup>11</sup> acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support

<sup>10</sup> The provisions of this section were substituted for the previous provisions by section 302 of the Agricultural Trade Development and Assistance Act of 1954, 68 Stat. 458. See section 9 of the Act of September 6, 1958, 72 Stat. 1792 (on p. 244) providing for distribution of commodities under section 416 to overseas areas under the jurisdiction or administration of the United States.

The Food for Peace Act of 1966, Public Law 89-808, 80 Stat. 1538, approved November 11, 1966, deleted all references to foreign donations from section 416. Such deletions are effective January 1, 1967.

<sup>11</sup> The words "whether in private stocks or" were added by the Act of July 24, 1959, 73 Stat. 250.

program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest: (1) upon application, to make such commodities available to any Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs,<sup>12</sup> in nonprofit summer camps for children,<sup>13</sup> in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served. In the case of (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible.<sup>14</sup> For the purpose of this section the terms "State" and "United States" include the District of Columbia and any Territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition.<sup>15</sup> (7 U.S.C. 1431.)

## SECTION 709—FOOD AND AGRICULTURE ACT OF 1965

(PUBLIC LAW 89-321)

### PURCHASE OF DAIRY PRODUCTS

SEC. 709. The Secretary of Agriculture is hereby authorized to use funds of the Commodity Credit Corporation to purchase sufficient supplies of dairy products at market prices to meet the requirements of

<sup>12</sup> See Act of September 13, 1960, 74 Stat. 899 (p. 243) authorizing the use of surplus foods for training home economics students.

<sup>13</sup> The words "in nonprofit summer camps for children," were added by the Act of July 2, 1958, 72 Stat. 286.

<sup>14</sup> This sentence was added by the Agricultural Act of 1956, 70 Stat. 203.

<sup>15</sup> This last sentence was added by Public Law 91-233, 84 Stat. 199, approved April 17, 1970.



any programs for the schools (other than fluid milk in the case of schools), domestic relief distribution, community action, and such other programs as are authorized by law, when there are insufficient stocks of dairy products in the hands of Commodity Credit Corporation available for these purposes. (7 U.S.C. 1446a-1.)

## COMMODITIES FOR SUMMER CAMPS

ACT OF JUNE 28, 1937, AS AMENDED <sup>16</sup>

To extend the time for purchase and distribution of surplus agricultural commodities for relief purposes and to continue the Federal Surplus Commodities Corporation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in carrying out the provisions of clause (2) of section 32 of the Act approved August 24, 1935 (49 Stat. 77), as amended, the Secretary of Agriculture may transfer to the Federal Surplus Commodities Corporation,<sup>17</sup> which Corporation is continued, until June 30, 1945, as an agency, of the United States under the direction of the Secretary of Agriculture, such funds, appropriated by said section, as may be necessary for the purpose of effectuating clause (2) of said section: *Provided*, That such transferred funds, together with other funds of the Corporation, may be used for purchasing, exchanging, processing, distribution, disposing, transporting, sorting, and handling of agricultural commodities and products thereof and inspection costs, commissions, and other incidental costs and expenses, without regard to the provisions of existing law governing the expenditure of public funds and for administrative expenses, including rent, printing and binding, and the employment of persons and means, in the District of Columbia, and elsewhere, such employment of persons to be in accordance with the provisions applicable to the employment of persons by the Agricultural Adjustment Administration.

In carrying out clause (2) of section 32, the funds appropriated by said section may be used for the purchase, without regard to the provisions of existing law governing the expenditure of public funds, of agricultural commodities and products thereof and such commodities, as well as agricultural commodities and products thereof purchased under the preceding paragraph of this section, may be donated for relief purposes and for use in nonprofit summer camps for children.<sup>18</sup> (15 U.S.C. 713c.)

<sup>16</sup> 50 Stat. 323; February 16, 1938, 52 Stat. 31, 38; June 27, 1942, 56 Stat. 461.

<sup>17</sup> The functions of the Federal Surplus Commodities Corporation have been transferred to the Secretary of Agriculture (7 U.S.C. 612a, note) and the Corporation has been dissolved.

<sup>18</sup> The last nine words were added by the Act of July 2, 1957, 72 Stat. 286.

[NOTE.—Public Law 89-321, 79 Stat. 1212, approved November 3, 1965, amended by Public Law 89-808, 80 Stat. 1538, approved November 11, 1966. The words "foreign distribution" appearing after the words "community action" were deleted by Public Law 80-803.]

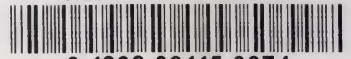
Title II of Public Law 83-690, Public Law 81-465, Public Law 85-478, and Public Law 87-128 directly relate to the use of dairy products. For current legislation refer to section 3 of the Child Nutrition Act of 1966 as amended.







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